IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Interim Relief Application No. 242 of 2007
In
Writ Petition No. 12 (SS) of 2006

Sri Sripal Singh Parihar,
Aged about 55 years,
S/o Sri Jodha Singh Parihar,
R/o Uttaranchal Academy of Administration,
Mallital,
District – Nainital. ……**…Petitioner.**

Versus

1. State of Uttarakhand through its Secretary, Rural Development, Civil Secretariat,
2. Uttaranchal Institute of Rural Development, Rudrapur, District – Udham Singh Nagar, through its Director.
3. Uttaranchal Administrative Academy, Nainital, through its Director.
4. Joint Director (Administration), Uttaranchal Administrative Academy, Nainital.

.....Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri Sharad Sharma, learned counsel for the petitioner, learned standing counsel for State of Uttarakhand on behalf of respondents no. 1 and 2 and Sri Sudhanshu Dulia, Sr. Advocate, assisted by Sri Vipul Sharma, learned counsel for respondent nos. 3 and 4.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. *issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 22.12.2005 issue by respondent no. 4 contained as Annexure 1 after summoning the original of the same from the respondents. .*

2. *issue a writ order or direction in the nature of Mandamus directing the respondents to allow the petitioner to complete his term of deputation and after completion of the same the petitioner be allowed to remain in his parent department at Nainital.*
3. *issue a writ, order or direction in the nature of which this Hon'ble court may deem fit and proper in the circumstances of the case.*
4. *award the costs of the petition.*

Vide order dated 22.12.2005 issued by respondent no. 4 petitioner was directed to join in the branch of Uttarakhand Administrative Academy, Nainital (hereinafter referred to as Academy) at Dehradun on 02.01.2006 after being relieved from Uttarakhand Gramya Vikas Sansthan, Rudrapur. Petitioner has challenged this order on the ground that order dated 22.12.2005 has been passed arbitrarily directing him to join at Dehradun on 02.01.2006 whereas his deputation period would expire on 28.02.2006.

From perusal of record, it appears that initially vide order dated 31.07.2004 passed by respondent no. 3 petitioner was sent to Uttarakhand Gramya Vikas Sansthan, Rudrapur for a period till 28.02.2005. This deputation was further extended by the Director, Uttarakhand, Gramya Vikas Sansthan, Rudrapur vide order dated 11.03.2005 upto 28.02.2006.

This court on 12.01.2006 stayed the operation of order dated 22.12.2005 by which petitioner was directed to join at Dehradun. The stay order was extended from time to time. The case was listed on 21.12.2006, on that date respondents have filed an application along with affidavit wherein the respondents have state that deputation period of the

petitioner has already been expired. In view of this statement, the court on 21.12.2006 has vacated the stay order passed by in favour of the petitioner on 12.01.2006.

Petitioner has moved application no. 242 of 2007 for staying the operation of order dated 22.12.2005 by which the petitioner was directed to join at Dehradun by 02.01.2006 and order dated 28.02.2007 by which the Executive Director, Uttarakhand Gramya Vikas Sansthan, Rudrapur has been directed to relieve the petitioner in the after noon of 28.02.2007 and petitioner was directed to join at Dehradun after being relieved from Rudrapur.

The submission of the learned counsel for the petitioner is that stay order was vacated by this court on 21.12.2006 on wrong submission made in the application filed by the respondents that the deputation period of the petitioner has already been expired.

From perusal of record, it reveals that deputation of the petitioner was extended upto 28.02.2006, however, petitioner remained with Uttarakhand Gramya Vikas Sansthan, Rudrapur even after 28.02.2006.

Considering the fact that the petitioner deputation has expired on 28.02.2006 and he is continuing with Uttarakhand Gramya Vikas Sansthan, Rudrapur, respondent no. 3 in the interest of petitioner passed order dated 22.02.2007 extending the period of deputation of petitioner at Uttarakhand Gramya Vikas Sansthan, Rudrapur till 28.02.2007

It is not disputed that this extension was granted to the petitioner vide order dated 22.02.2007 and thus, there is no misrepresentation of fact before this court by the respondents. On 21.12.2006, stay was vacated because at that

time deputation was not extended beyond 28.02.2006. Vide order dated 22.02.2007, the period of deputation was extended upto 28.02.2007. Vide order 28.02.2007 Executive Director, Uttarakhand Gramya Vikas Sansthan, Rudrapur has been directed to relieve the petitioner in the after noon of 28.02.2007 and petitioner was directed to join at Dehradun after being relieved from Rudrapur.

I do not find any illegality in the order dated 28.02.2007. Petitioner has not challenged order dated 28.02.2007 passed by respondent no. 3. Petitioner is free to challenge 28.02.2007 passed by respondent no. 3 by way of filing another writ petition.

The submission of the learned counsel for the petitioner is that he is being posted at Dehradun only because he has not vacated the official accommodation which has been occupied by him at Academy.

Order dated 28.02.2007 has been passed by respondent no. 3 after considering the fact that the petitioner was directed to join at Dehradun branch vide order dated 22.12.2005 against which petitioner had filed writ petition and stay was granted in his favour. Since the stay has been vacated by the High Court, order dated 22.12.2005 has been revived and the petitioner is directed to join at Dehradun. There is no whisper in the order dated 28.02.2007 or order dated 22.02.2007 that since the petitioner has not vacated the house occupied by him at Academy consequently, he is being posted at Dehradun.

Since the stay order has already been vacated. Term of deputation of petitioner has already been expired on 28.02.2007. Further the petitioner has been relieved from Uttarakhand Gramya Vikas Sansthan, Rudrapur, as stated by

learned counsel for respondents, writ petition has become infructuous.

Writ petition is dismissed as infructuous. Interim relief application no. 242 of 2007 is rejected. No order as to costs.

(M.M. Ghildiyal, J)

March 8, 2007
SKsharma